

REMARKS/ARGUMENTS

Claims 12 and 13 are pending. Claim 13 is amended to correct an antecedent basis problem. Claim 12 is withdrawn from consideration.

By the office action of September 28, 2005, the examiner rejected claim 13 as being anticipated by the abstract and slides of the presentation given in February 2001. The examiner states that the references teach a lead perovskite ferroelectric material which is ordered along the [001] direction. The examiner also states that slides 10 and 15 teach that the taught material has the same planar composition and formula as that claimed, where A has the same meaning as v in the claims and the same range as that disclosed in paragraph [0014] of the specification. The examiner thus concludes that the taught material is identical to that claimed and must inherently have the claimed properties over the same temperature range, absent any showing to the contrary. In this regard the examiner references *In re Spada*, 911 F.2d 705, 709, 15 USPQ.2d 1655, 1658 (Fed. Cir. 1990). The examiner also states that the fact that the slides measure properties at 50K does not overcome the rejections since the taught and claimed compositions are identical and thus would inherently have the claimed properties over the claimed temperature range. The examiner's rejection is respectfully traversed for the following reasons.

First, the examiner has not made out a prima facie case that the set of slides was a "printed publication" for the purpose of §102(b). As shown by the attached Declaration of Laurent Bellaiche, prior to the filing date of the present application, the slides were not provided to the public in a printed form and the slides were not displayed publicly except in conjunction with the oral presentation in February 2001.

Thus, the examiner is apparently basing the rejection solely on the display of the slides during the oral presentation. However, as noted in *In re Klopfenstein*, No. 03-1583 (Fed. Cir. 08/18/2004), "the mere presentation of slides accompanying an oral presentation at a professional conference is not per se 'a printed publication' for the purposes of §102(b)."

The Klopfenstein court further stated that "a presentation of lecture slides that was of limited duration was insufficient to make the slides 'printed publications' under §102(b).") *In re Klopfenstein*, No. 03-1583 (Fed. Cir. 08/18/2004), citing the holding in *Regents of the Univ. of Cal. v. Howmedica, Inc.*, 530 F.Supp. 846, 860 (D.N.J. 1981). As shown by the attached Declaration, the showing of the slides was limited in duration. Given the limited amount of time the slides were displayed with respect to the complexity of the information presented on the slides, they could not disclose the invention sufficiently to the members of the audience having ordinary skill in the art to be considered publicly accessible.

The slides were displayed transiently for a period of less than 35 minutes. By contrast, the Liu reference that was found in *Klopfenstein* to be a printed publication was displayed on a poster for two and a half days on one occasion and for an additional period of less than a day at a separate occasion.

Further, the slides that accompanied the February 2001 oral presentation were complex, including equations, illustrative figures and graphs, and thus not easily copied during the brief period of time the slides were displayed during the oral presentation.

Thus, the slides were not sufficiently accessible to the public to qualify as a "printed publication" under §102(b).

For these reasons, the set of slides accompanying the oral presentation in February 2001 was not a "printed publication" and thus not prior art that may be cited against the claims of the present application under §102(b).

While the abstract of the oral presentation was admittedly a "printed publication," it did not disclose material elements of the claimed invention, including, significantly, the planar composition of the claimed invention. Thus the abstract alone does not anticipate claim 13.

Therefore, for the reasons given above, it is respectfully requested that the rejection under §102(b) be withdrawn.

Furthermore, even if the set of slides accompanying the February 2001 oral presentation were considered to be a "printed publication," the slides do not anticipate the claimed invention.

Claim 13 claims not a single perovskite alloy, but a class of alloys. The class of alloys comprise an alloy for each temperature in the range of 50K to the Curie temperature of the disordered alloy. For each temperature, the alloy is defined by the specific value of the modulated parameter v that provides enhanced dielectric and piezoelectric properties over that of the disordered alloy. Therefore, there is a different "selected modulated parameter" for each temperature and therefore for each alloy in the class of alloys. The slides show calculated properties of an alloy at 50K. The slides do not disclose a "selected modulated parameter" for any temperature above 50K and below the Curie temperature. Further, the slides do not disclose that such a "selected modulated parameter" exists at any temperature in the claimed range. While the slides include graphs showing calculated properties for an alloy at 50K for each v in the range

of 0.0-0.5, the slides only disclose selected values of the modulated parameter v that would produce alloys having enhanced properties at 50K. A value for the "selected modulated parameter" for any other alloy in the class of alloys is not disclosed.

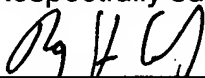
Since a material element of the claimed invention is not disclosed by the slides accompanying the oral presentation of February 2001, it is respectfully submitted that the claimed class of alloys in claim 13 is not anticipated by the slides of the February 2001 presentation.

For this reason also, it is requested that the rejection of claim 13 under §102(b) be withdrawn.

The applicant submits therefore that claim 13 is in condition for allowance. Such action is respectfully requested.

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Respectfully submitted,



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